

Beau Biden's first year wins positive reviews

Attorney general usually stays behind the scenes

By ESTEBAN PARRA, The News Journal
Posted Tuesday, March 4, 2008



Attorney General Beau Biden's first year in office has been greeted with positive feedback, though some critics say he should take more of a public role. [\(Buy photo\)](#) The News Journal/FRED COMEGYS



Born from Beau Biden's chief campaign issue, his special unit focusing on child predators has netted 20 convictions so far.

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During his campaign for attorney general two years ago, Beau Biden promised to be more proactive. He said he didn't want to just prosecute criminals; he wanted to aggressively work to reduce crime.

That is what brought residents of Wilmington's Southbridge neighborhood together with city and police officials and a deputy attorney general last month.

Their conversation, held at the Neighborhood House, touched on everything from crime to area nuisances to speeding. They talked about the problems and what could be done.

As part of his Community Prosecution program, Biden assigned prosecutors to geographic zones. Southbridge was one of the first areas identified.

Wilmington public safety director, James Mosley, said he likes that the program gives the Attorney General's [Office](#) a face and is encouraged Biden is willing to try new ideas.

"I'm not going to tell you that this is a silver bullet," Mosley said. But "this shows his willingness to be innovative. He has not come forward and said, 'This is the one and only answer.' What he says is, 'I will join with you in fighting this.'"

Starting the Community Prosecution effort was one of the promises Biden has kept since taking office last year, a year in which he's generally received good reviews after creating a child predator unit and starting a family division to tackle juvenile issues.

But he also said he would push for open government reforms, a promise that seems to have died shortly after he supported a bill authorizing his office to take the side of citizens in court when state agencies deny access to records.

Under current law, people denied access to government records appeal to the Department of Justice, which issues an opinion on whether the denial is appropriate or not. If citizens appeal the agency's decision in court, the Attorney General's Office must represent the agency, with citizens paying their own legal fees.

In May, Biden held a news conference to support a bill that would change the law to permit his office to sue on behalf of people found to have legitimate complaints of sunshine law violations against state agencies.

But even before the bill was introduced in June, Senate President Pro Tem Thurman Adams Jr., D-Bridgeville, said he had concerns with the cost of the proposal. The bill never moved out of his Executive Committee desk drawer, and Biden made no further noise about it.

Biden said he has made his position clear, but has not used his pulpit to push for the measure because he was "not a policymaker."

"Here's the deal: I enforce the laws, I don't make them," he said.

Open-government advocate and former Common Cause lobbyist John Flaherty said Biden should fight for this bill publicly, but Sen. Karen E. Peterson, D-Stanton, who introduced the bill, said that would be futile.

"Statewide elected officials don't have any more pull than any other person in the state," she said, noting that many of her open-government bills don't get past Adams' committee. "It's well established they like to do things secretly."

'Accountability to the people'

Biden also has shunned the limelight, deferring most public comment on cases or public policy issues to his press officer.

"I know it might be a little of a sea change, but it's the way I was taught as a federal prosecutor," said Biden, 39. "That's the way I think we should conduct ourselves here."

But Biden's lack of [communication](#) on certain controversial issues leaves some wondering what the state's top law enforcer stands for.

"In a small state like Delaware, being held accountable for actions to the public through the media is part of the job and you should do that on a regular, ongoing basis," Flaherty said. "He should embrace that. Win, lose or draw, he should be able to defend his position and take his lumps if it is a tough issue."

Biden has said very little publicly about issues such as allegations of misconduct and patient abuse at the Delaware Psychiatric Center, the issue of dogfighting in Delaware or his office's controversial decision to clear Wilmington police officers who fatally shot Derek J. Hale, a member of the Pagans Motorcycle Club, on Nov. 6, 2006.

In that case, Wilmington police Lt. William Browne was cleared by Biden's office of violating state law in the shooting death of 25-year-old Hale, who had been struck seven times with electric shocks from a Taser stun gun.

"I think too many prosecutors around this country talk too much," he said, noting Mike Nifong, the former Durham, N.C., district attorney who unsuccessfully prosecuted three members of the Duke University lacrosse team for rape.

Biden said Nifong conducted more than 50 newspaper and television interviews before the indictment, using the media for strategic advantage in criminal cases. Nifong has since been disbarred for his actions.

"Your job is to investigate a case," Biden said. "Review the facts, decide whether or not there is probable cause to believe a crime was committed, arrest if there is, indict and try the case in court."

Sam Hoff, a political science professor at Delaware State University, said public officials do not build good relations when they shy away from controversial issues.

"For major stories that affect the state ... I believe a public official should make time," he said. "There is an accountability to the people."

Prosecutions, guilty verdicts up a bit

Biden generally receives good marks on his first year as the state's top prosecutor and lead legal authority from those who work with or follow the position.

His office filed more than 10,000 criminal cases in Superior Court in his first year, up 2.7 percent from the previous year. That court handles the more serious criminal offenses, including assaults, robberies and murders.

About 64 percent of cases that went to trial ended with a guilty verdict, just slightly higher than the previous year.

"That's a reasonable number," said David LeBahn, director of the American Prosecutors Research Institute. According to a 2005 institute study of the 40 largest urban counties in the nation, the national average is about 52 percent.

Structural changes to staff

After winning the office by beating veteran prosecutor Ferris Wharton, Biden quickly moved to put an experienced senior staff in place.

He hired former Superior Court judge and attorney general Richard S. Gebelein as chief deputy attorney general, and Richard Andrews, the former First Assistant U.S. Attorney for Delaware, as state prosecutor.

At a cost of more than \$100,000, Biden created the position of chief of staff to oversee office administration, including policy and hiring. The post was created by reclassifying a nonattorney staff position.

With a payroll of nearly 400, Biden said a chief of staff was needed to deal with personnel issues once handled by the chief deputy.

"It allows the chief deputy to be much more focused on setting the foundation or making the necessary changes to make us a more effective criminal division or a more effective civil division or a more effective fraud division or a more effective family division," he said.

Biden also made changes to unit and division heads, including new chief prosecutors in each county, and created the new units he promised during the fall campaign.

The child predator unit -- his main campaign initiative -- dedicates a full-time deputy attorney general and investigator to pursue crimes against children, particularly online pornography. It works from a building that also houses the Delaware State Police high-tech crime unit.

"I wanted to be able to bring the entire package, prosecutor and police officer ... to bear on the problem at the earliest possible point," Biden said.

In the time the unit has been running, 20 cases have resulted in convictions.

Biden also folded the appeals division into the criminal division, and restructured to form a family division to focus the work of prosecutors experienced in child protection and abuse, domestic violence and juvenile delinquency.

As cases are pursued, Biden said the division will try to find support resources for children and families.

"What I want the family division to begin to do is to begin to connect some of those dots," he said. "Because the kid -- the young girl or boy who is the witness to a domestic violence or serious violence -- we know has a greater likelihood of being an abuser or potentially engaging in criminal conduct."

Good feedback

His initiatives have been well received by advocacy groups such as the Delaware Center for Justice, an advocate for at-risk juveniles and crime victims.

"I think the creation of the family division has been a hopeful sign," said Janet Leban, the center's executive director, who likes the idea of having the family units supervised by one deputy attorney general under one roof. "I thought the move to create the family division was a strong one."

Chief Public Defender Larry Sullivan said there is an atmosphere of professionalism and maturity in the office's approach to criminal matters.

"His decisions were in no way political, and that is refreshing," said Sullivan, who has hired onetime Biden foe Wharton as a public defender.

Sullivan said his defenders have not had to try to figure out the politics behind decisions to prosecute cases. He said he meets with Biden frequently to talk about what their people are doing and exchanges ideas.

"We have a very good relationship," he said.

Even groups that disagreed with some of Biden's campaign proposals give him a passing grade for his first year.

"I think year two is crucial to see clearly some of the initiatives and the direction the office will be moving in," said Leban. "I'll be watching carefully."

Her group and Stand Up for What is Right and Just, or SURJ, want minimum mandatory sentencing in drug cases eliminated. Biden opposes that.

Biden said he will continue tweaking the department, but some changes may need to wait. His Delaware National Guard unit has received an "alert order" for deployment to Iraq.

The 100 members of his 261st Signal Brigade are now training for a mission that could leave the state without its top law enforcement officer for up to a year.

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